C.W.P. No.15835 of 2001

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G.L.Rampal and others Vs. State of Haryana and others

Present: Mr. Ashwani Talwar, Advocate
for the petitioner.

Mr. Yashwinder Singh, AAG, Haryana,
for the State.

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This order will dispose of Civil Writ Petition Nos.15835 of 2001 (***G.L.Rampal and another Vs. State of Haryana and others)***, 6841 of 2001 (***O.P.Gagneja and others Vs. State of Haryana and others)*** and Civil Writ Petition No.17317 of 2000 (***Yogendra Prakash Gupta Vs. State of Haryana and others).*** The facts are being taken from Civil Writ Petition No.15835 of 2001.

The petitioners have filed this writ petition seeking a writ in the nature of mandamus for issuing direction to the respondent to correctly fix the revised pension of the petitioners plus usual allowances with effect from 1.1.1996 on the basis of a notification dated 18.1.2000, Annexure P-3. It is provided by this notification that the employees shall be granted pension not less than 50% of the minimum pay scale w.e.f. 1.1.1996 for the post last held by the petitioners. The petitioners who were Superintending Engineers were having the pay scale of Rs.13500-17250. Those Superintending Engineers who had completed 13 years of service as XEN, were given pay scale of Rs.14300-18300. It is on this basis claimed by the petitioner that their pension should be fixed at fifty percent of Rs.14300 instead of fifty percent of Rs.13500/-.

During the pendency of the writ petition, revised instructions for pension and family pension in respect of pre 1996 retirees have since been issued.

It is provided in instructions, Annexure R-1, attached with the amended written statement that decision is taken to fix the notional pay of all pre 1986 pensioners and this notional pay is to be treated as average emolument for the purpose of calculation of notional pension as on 1.1.1986. As per the pension formula then prescribed, this notional pension is then consolidated as on 1.1.1996 in accordance with the provisions contained in the Government of India, Letter OM No.45/86/97-P & W (A)- Part II dated 27.10.1996. The benefit on the pattern of Government of India has been allowed by the Haryana Government to all the pre 1986 pensioners. Subsequently, government of India through their instructions dated 17.12.1998 fixed the pension of all pensioners irrespective of their date of retirement to be not less than 50% of the minimum of the revised pay scale as on 1.1.1996 of the post last held by the pensioner at the time of his retirement. The State Government also extended this benefit for its pensioners and issued instructions in this regard for pre 1986 and pre 1996 pensioners. It is further clarified in Annexure R-1 that the connotation of `**post last held'** 'by the pensioner at the time of his/her superannuation and that of the sentence used in instructions dated 17.12.1998 reading “pension of all pensioners irrespective of their date of retirement shall not be less than 50% of the minimum pay in the revised scale of pay w.e.f. 1.1.1996 of the post last held by the pensioner” shall mean that the

pension of all pensioners irrespective of their date of retirement shall not be less than 50% of the minimum of the corresponding scale as on 1.1.1996 of the scale of pay held by the pensioner at the time of superannuation/retirement. It is further clarified that minimum scale as on 1.1.1996 does not include special pay, N.P.A. or any other component for this purpose. According to this clarification, the pension is required to be fixed @ 50% of the minimum of the scale of the post held by the retiree as on 1.1.1996 and this is to be exclusive of any N.P.A or special pay etc. Superintending Engineers, who were drawing pay scale of Rs.4100-5300 were replaced by the corresponding revised pay scale of Rs.13500-17250/- and hence their pension is also to be revised keeping in view this corresponding revised pay scale in terms of the Haryana Government instructions circulated vide letter No.1/2(8)-98-2FR-II (Part VIII), dated 7.1.2002.

In view of these revised instructions, the action of the Government in fixing the pension of the petitioner by taking Rs.13500 to be the basic pay can not be faulted. The petitioners are fixed in this pay scale in view of the abovesaid instructions, Annexure R-1. The prayer made for grant of scale of 14300-18300 obviously can not be justified as pay of the petitioners has been fixed in the pay scale of Rs.13500-17250 from the pre-revised pay scale of Rs.4100-5300, minimum of which is Rs.13,500/-.

There is no merit in the writ petition and the same is dismissed.

February 26, 2008 **(RANJIT SINGH)**
khurmi **JUDGE**